

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DISTRICT

JOHN RANDALL SMITH,)
Plaintiff,)
v.) Case No. 12-cv-2236
METHODIST HEALTHCARE MEMPHIS)
HOSPITALS,)
Defendant.)

DEFENDANT'S NOTICE OF REMOVAL

NOW INTO COURT, through undersigned counsel, comes Methodist Healthcare-Memphis Hospitals ("Methodist"), and files this Notice of Removal effecting removal of *John Randall Smith v. Methodist Healthcare Memphis Hospitals*, Case No. CH-11-1536-1, from the Chancery Court for the Thirtieth Judicial District at Memphis, Tennessee to the United States District Court for the Western District of Tennessee. As basis for removal, Methodist respectfully states that:

1. This action was commenced on September 20, 2011, by the filing of a "Complaint for Discrimination in Employment" in the Chancery Court of Shelby County, Tennessee, *John Randall Smith v. Methodist Healthcare Memphis Hospitals*, Case No. CH-11-1536-1. A copy of the Complaint, and all process, pleadings and orders served on Methodist in the state court action are attached to this Notice of Removal as Exhibit "A" and are incorporated herein by reference.
2. Methodist was served by certified mail delivery of the summons and complaint on February 29, 2012. This Notice of Removal is timely filed within thirty (30) days of receipt of

the initial pleading setting forth the claim for relief upon which such action or proceeding is based in accordance with the provisions of 28 U.S.C. § 1446(b). Removal is therefore timely under 28 U.S.C. §1446(b).

3. Venue of this removal is proper under 28 U.S.C. §1441(a) because this Court is the United States District Court for the district corresponding to the place where the state court action was pending.

4. This action is one of a civil nature, wherein the United States District Court for the Western District of Tennessee has jurisdiction pursuant to 28 U.S.C. §1331.

5. As grounds for removal, Methodist states that this Court has original jurisdiction over this matter as it arises under the laws of the United States, including Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000(e), and the Age Discrimination in Employment Act (ADEA), 29 U.S.C. §621 et seq. See 28 U.S.C. §1331. Accordingly, Plaintiff's allegations in the Complaint state a "claim or right arising under the ... laws of the United States," which is properly removed to this Court. 28 U.S.C. §1441(b). This action, therefore, could have been originally filed in this Court pursuant to 28 U.S.C. §1331, as this Court has federal question jurisdiction. In addition, this Court has supplemental jurisdiction over the remaining claims of discrimination under the Tennessee Human Rights Act, negligent infliction of emotional distress and intentional infliction of emotional distress.

6. Pursuant to 28 U.S.C. §1446(d), all adverse parties are being provided with written notice of removal, and a copy of this notice of removal is being filed with the Clerk of the Chancery Court of Shelby County, Tennessee. A copy of the notice of this filing of removal is attached hereto as Exhibit "B".

Conclusion

WHEREFORE, PREMISES CONSIDERED, Plaintiff's allegations in the Complaint allege a claim or right arising under laws of the United States, providing this Court federal question jurisdiction over those claims, pursuant to 28 U.S.C. §1331. Supplemental jurisdiction exists over Plaintiff's non-federal claim pursuant to 28 U.S.C. §1337. This action is hereby removed from the Chancery Court of Shelby County, Tennessee to the United States District Court for the Western District of Tennessee in accordance with the provisions of 28 U.S.C. §§1441 and 1446. Plaintiff is hereby notified to proceed no further in state court.

Respectfully submitted this 26th day of March, 2012.

s/David P. Jaqua

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Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of March, 2012, the foregoing was filed via the ECF/CME system and served via U.S. Mail, postage prepaid on:

Edgar Davison
DAVISON LAW FIRM
6000 Poplar Avenue, Suite 250
Memphis, TN 38119

s/David P. Jaqua
DAVID P. JAQUA

Memphis 2257464v1